

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **January 25, 2005, Work Session**

AGENDA ITEM NO.: 9

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION:

INFORMATION: **X**

ITEM TITLE: **Adelphia Cable TV Franchise Renewal Update**

RECOMMENDATION: None.

SUMMARY: The attached report provides a status of Adelphia's cable television franchise renewal in Lynchburg.

PRIOR ACTION(S): The original franchise was due to expire in March, 2003. City Council has granted extensions to the franchise twice: one twelve month extension to March, 2004, and a second extension to December 31, 2004. Since December 31, 2004, Adelphia has been operating as a holdover tenant, with the terms and conditions of the original franchise still in effect.

The following needs assessments have been performed:

City & Schools Staff	November, 2000
Public Forum	April, 2001
Citizen Survey	July, 2001
Technical Evaluation	February, 2002
Financial Evaluation	June, 2002
City & Schools Staff	March, 2004
Public Forum	March, 2004

FISCAL IMPACT: None.

CONTACT(S): Mike Goetz, Director – Information Technology
455-6002

ATTACHMENT(S): Report entitled "Adelphia Cable Television Franchise Renewal"

REVIEWED BY: lkp

Adelphia Cable Television Franchise Renewal

Status: January, 25, 2005

Summary of Actions

A core negotiating team was assembled in the summer of 2004, made up of:

Bonnie Svrcek, Deputy City Manager

Walter Erwin, City Attorney

Mike Goetz, Director – Information Technology

JoAnn Martin, Director – Communications & Marketing

Stuart Chapman, President – Municipal Services Associates (consultant to the City).

An initial draft franchise agreement was developed by the team, using the information obtained in the assessments performed since 2000 (see Prior Actions section of City Council Agenda Item Summary for a list of these assessments). Information obtained anecdotally from citizen complaints was also used to help formulate the City's positions. Two recent agreements between Adelphia and Charlottesville and Adelphia and Danville were also reviewed to provide a benchmark for the City's positions.

The City's draft of the franchise agreement was sent to Adelphia on August 27, 2004. This draft established the starting point for negotiations. Adelphia replied on October 20, 2004 with an edited version of the draft. This version contained a significant number of strike-throughs and highlights for discussion. Face-to-face meetings were held with Adelphia on November 30, 2004, December 21, 2004, and January 11, 2005. Additional work sessions are scheduled in February and March. Given the large number of points to cover in the agreement, the work sessions to-date have been used primarily to merely reach a common understanding of each party's positions.

Major Points of Negotiation

Although many items of interest to the City and Lynchburg citizens, such as pricing and programming line-ups, are prescribed in federal law to be under the control of the cable company and not subject to a franchise agreement, there are many areas of interest where the City can exert some influence. These major areas of interest include:

- *Term of the franchise* – defining the length of time the franchise will be in effect.
- *System upgrade* – obtaining a commitment, including a schedule, for maintaining a technologically-current system in Lynchburg.
- *Customer service standards* – defining the minimum requirements for responsiveness to answer phone calls and to perform repairs, and obtaining a commitment for Adelphia to provide regular reports regarding their performance.
- *Definition of Gross Revenues* – finding mutually agreeable language for the treatment of new technologies (such as video over the Internet Protocol (IP) and voice over IP), recognizing that this issue will ultimately be decided by Congress, the FCC, the Courts, and possibly the State.
- *Support for Public, Education, and Government (PEG) channels* – implementing the right mechanisms, possibly in the form of a PEG support fee to be added to customers' monthly bills and/or a PEG capital grant from Adelphia, to ensure the PEG channels and the associated production studio are of the same broadcast quality as other channels, and that this will be sustained over the life of the franchise agreement.

- *Transfers of Ownership or Control* – given Adelphia’s precarious position due to its bankruptcy and possible sale, finding mutually agreeable language that will protect the City’s interests in the event Adelphia is sold or taken over.

Planned and Recommended Actions

As noted above, additional work sessions are scheduled. To the extent necessary, additional work sessions will be conducted as quickly as possible to reach consensus on the draft franchise agreement. However, due to Adelphia’s bankruptcy status and new management structure, significant time is required for Adelphia to review and process negotiating positions. Progress is being made at a slow, steady pace. We are unable to predict at this point how long it will take to develop a draft franchise agreement to present to City Council for review and approval.

Since the latest franchise agreement extension expired on December 31, 2004, Adelphia is now operating as a holdover tenant, with the terms and conditions of the current franchise still in effect. Staff recommends that this holdover tenant situation continue, as long as meaningful progress continues to be made in the negotiations.

Author: Mike Goetz

Date: January 12, 2005